

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:
Heraeus Metal Processing, Inc.
13429 Alondra Blvd.
Santa Fe Springs, CA 90670

EPA ID # CAD 060 398 229

Respondent.

Docket HWCA Ag 2063-0344

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Heraeus Metal Processing, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent generates, handles, treats, and stores hazardous waste at 13429 Alondra Boulevard, California 90670 ("Site") .

2. The Department authorized Respondent to store, treat, and transfer hazardous waste under a Standardized Hazardous Waste Facility Permit, Series B issued on June 2, 1998 ("Permit"), and its Final Decision and Order Granting Appeal, Docket No. HWCA 99/00-P003, issued on November 9, 1999. The Permit was modified on September 18, 2000, to reflect the Respondent as the new owner and operator of the Site.

3. The Department inspected the Site on March 26, 2002.

4. The Department alleges the following violations:

4.1. Respondent violated Health and Safety Code section 25202, subdivision (a), and Parts I-6(b) and 11-12 of the Permit, by storing hazardous waste in

an unauthorized area, to wit: Respondent stored six fifty-five-gallon drums identified as containing hydrochloric and nitric acid mixtures, and six fifty-five gallon drums identified as containing hydrazine hydrate and nitric acid, each of which arrived at the Site on a manifest, in an unauthorized Hazardous Waste Storage Area. Respondent stored these twelve drums in the Resin North Warehouse for about 28 days, from January 11, 2002 until February 8, 2002.

4.2. Respondent violated the California Code of Regulations, Title 22, section 66264.15, by failing to inspect an area used for storage of hazardous waste containers, to wit: Respondent failed to inspect its Roll-off Bin Storage Area, including the loading and unloading areas. Respondent also failed to note the time of inspection for all of the permitted Hazardous Waste Storage Areas.

5. A dispute exists regarding the alleged violations.

6. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

7. Jurisdiction exists pursuant to Health and Safety Code section 25187.

8. Respondent waives any right to a hearing in this matter.

9. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

10. Respondent admits the violations described above.

SCHEDULE FOR COMPLIANCE

11. Respondent shall comply with the following:

11.1.1. Effective immediately, Respondent shall cease storing hazardous-waste in its Resin North Warehouse that is not destined for precious metal reclamation in its industrial furnace, or in any area not authorized by the Department. Within 10

days from the effective date of this Order, Respondent shall provide documentation to the Department of the disposition of the 12 fifty-five gallon drums of the metal-bearing spent acids, including the date of transfer and/or use of the aforementioned hazardous waste.

11.1.2. Effective immediately, Respondent shall inspect its Roll-Off Bin Storage Area, the loading and unloading areas. In addition, Respondent shall record the time of inspection for all the permitted areas.

11.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Florence Gharibian, Chief
Southern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

11.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

11.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

11.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to-assure worker safety.

11.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

11.7. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health welfare or the environment.

11.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating log and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such

persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

11.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

11.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

11.11. Incorporation of Plans and Reports: All plan schedules, and reports that require Department approval and are submitted by Respondent pursuant to this

Consent Order are incorporated in this Consent Order upon approval by the Department.

11.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

11.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

12. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total of \$17,380. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P.O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Florence Gharibian, Chief
Southern California Branch
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

To: Harrison Pollak
Deputy Attorney General
Department of Justice
Office of the Attorney General
P.O. Box 70550
Oakland, California 94612

and

To: Debra Schwartz
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

If Respondent fails to make-payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

13.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

13.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

13.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultant: successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

13.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

13.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

13.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: January 9, 2004

Original signed by Respondent
Heraeus Metal Processing, Inc.
Respondent

Dated: January 21, 2004

Original signed by Florence Gharibian
Florence Gharibian, Chief
Southern California Branch
Statewide Compliance Division
Department of Toxic Substances Control